

Congress of the United States
Washington, DC 20515

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Received & Inspected

JUN 01 2016

FCC Mail Room

May 25, 2016

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

The Honorable Jessica Rosenworcel
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

The Honorable Michael O'Rielly
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

The Honorable Mignon Clyburn
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

The Honorable Ajit Pai
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

Dear Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly:

The Internet is revolutionizing the way consumers communicate, shop, learn, and entertain themselves. It is changing how they control their homes, their cars, and many parts of their lives. Consumers derive substantial benefits from using and relying on these connected products and services, which are powered and enabled by data. With these uses, consumers have certain Internet-related privacy and security expectations. Consumers rightly expect all companies that collect and use their data to be transparent about their practices and to provide them with appropriate choices with respect to how their information is used and shared.

Until last year, the Federal Trade Commission (FTC) provided a robust consistent privacy framework for all companies in the Internet services market. That holistic and consistent approach struck the right balance: consumers' use of Internet services and applications has continued to increase and consumers' privacy has been protected.

As you are aware, a consequence of the FCC's reclassification of broadband services has been to upset this consistent treatment giving rise to the rulemaking now under consideration aimed at Internet Service Providers (ISPs), which comprise only a portion of the Internet services market.

We had hoped that the FCC would focus on those protections that have traditionally guarded consumers from unfair or deceptive data practices by ISPs and the other companies in the Internet services market. But, based on the Commission's Notice of Proposed Rulemaking, we remain increasingly concerned that the Commission intends to go well beyond such a framework and ill-serve consumers who seek and expect consistency in how their personal data is protected.

If different rules apply to the online practices of only selected entities, consumers may wrongly assume that the new rules apply to all of their activities on the Internet. But when they discover otherwise, the inconsistent treatment of consumer data could actually undermine consumers' confidence in their use of the Internet due to uncertainty regarding the protections that apply to their online activities.

With the above considerations in mind, we strongly urge the FCC to consider a consistent FTC-type approach to protect consumer privacy that balances consumers' privacy expectations and avoids negative impacts on consumers.

Sincerely,



Bobby L. Rush
Member of Congress



Gene Green
Member of Congress



Leonard Lance
Member of Congress



Renee L. Ellmers
Member of Congress



Pete Olson
Member of Congress



Gus M. Bilirakis
Member of Congress



Kurt Schrader
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2016

The Honorable Kurt Schrader
U.S. House of Representatives
2431 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Schrader:

Thank you for your letter expressing concern about the Commission's work to adopt rules protecting the privacy of broadband customers' personal information.

I share your appreciation for the extraordinary economic and social benefits brought about by the availability of internet access and the proliferation of connected devices. In light of these developments, as you pointed out, consumers have certain internet-related privacy and security expectations. This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks).

However, this connectivity flows both ways. A broadband provider handles all network traffic, which means it has an unobstructed view of all of unencrypted online activity. On a mobile device, a broadband provider has the capability to track the physical and online activities throughout the day in real time. Even when data is encrypted, a broadband provider can still see the websites that a customer visits, how often they visit them, and the amount of time they spend on each website. Using this information, they can piece together enormous amounts of information about an individual—including private information such as a chronic medical condition or financial problems. A consumer, once signed up for a broadband service, cannot simply avoid the network in the same manner as a consumer can instantaneously (and without penalty) switch search engines, surf among competing websites, and select among diverse applications. Because of this, internet service providers are, as the FTC noted, "in a position to develop highly detailed and comprehensive profiles of their customers – and to do so in a manner that may be completely invisible."

The FTC has demonstrated great leadership in the area of protecting the privacy of consumers. While the FTC has an important role in protecting consumer privacy, Congress has enacted sector-specific privacy protections in a variety of areas, including financial institutions, schools and other educational institutions, healthcare providers, and credit reporting agencies. And, Congress has tasked various agencies with implementing and overseeing regulations in these areas. For example, the Department of Health and Human Services regulates the privacy practices of "covered entities" under HIPAA—such as doctors, hospitals, and health insurance plans. The FCC's proposed broadband privacy rules fit right alongside rules tailored to different industries and environments. Our goal is to protect customers' privacy in our particular

jurisdiction — the telecommunications market — which is why we are proposing rules applicable to Broadband Internet Access Service providers, not edge providers, which are subject to a regulatory framework with FTC oversight and enforcement and often state oversight as well.

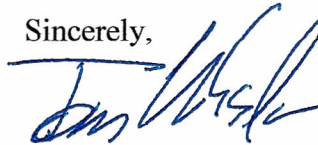
The Commission has a long history of protecting consumer privacy of information carried by communications service providers.¹ Throughout the 1980s and 1990s, the Commission imposed limitations on incumbent telephone companies' use and sharing of customer information. And in 1996, Congress enacted Section 222 of the Communications Act, which provided statutory privacy protections to data that telecommunications providers collect from their customers. Consumers using modern telecommunications technologies are no less deserving of such protection.

The Commission's NPRM proposes a path forward for broadband internet access service towards final rules that will provide clear guidance to both internet service providers and their customers. The FTC's core privacy principles – transparency, choice, and security – are at the heart of the NPRM. And, with valuable input from concerned stakeholders like yourself, we will be able to provide consumers with protections that will consistently safeguard consumer data and bolster consumer confidence in their use of modern telecommunications networks.

Thank you again for reaching out to me with your perspectives. I have asked that your letter be added to the record of the rulemaking proceeding so that it can be considered as part of the public record that informs the next steps in the Commission's broadband privacy rulemaking.

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish at the end.

Tom Wheeler

¹ 47 U.S.C. § 605.



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 30, 2016

The Honorable Bobby L. Rush
U.S. House of Representatives
2188 Rayburn House Office Building
Washington, D.C. 20515

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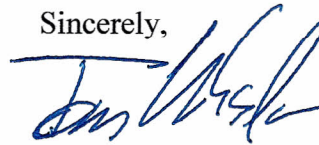
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2016

The Honorable Pete Olson
U.S. House of Representatives
2133 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Olson:

Thank you for your letter expressing concern about the Commission's work to adopt rules protecting the privacy of broadband customers' personal information.

I share your appreciation for the extraordinary economic and social benefits brought about by the availability of internet access and the proliferation of connected devices. In light of these developments, as you pointed out, consumers have certain internet-related privacy and security expectations. This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks).

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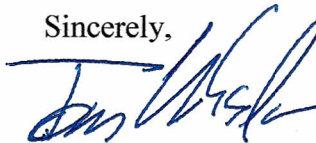
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Tom Wheeler

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2016

The Honorable Gene Green
U.S. House of Representatives
2470 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Green:

Thank you for your letter expressing concern about the Commission's work to adopt rules protecting the privacy of broadband customers' personal information.

I share your appreciation for the extraordinary economic and social benefits brought about by the availability of internet access and the proliferation of connected devices. In light of these developments, as you pointed out, consumers have certain internet-related privacy and security expectations. This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks).

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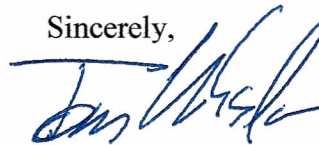
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2016

The Honorable Renee Ellmers
U.S. House of Representatives
1210 Longworth House Office Building
Washington, D.C. 20515

Dear Congresswoman Ellmers:

Thank you for your letter expressing concern about the Commission's work to adopt rules protecting the privacy of broadband customers' personal information.

I share your appreciation for the extraordinary economic and social benefits brought about by the availability of internet access and the proliferation of connected devices. In light of these developments, as you pointed out, consumers have certain internet-related privacy and security expectations. This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks).

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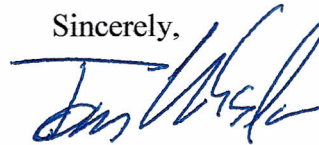
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WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2016

The Honorable Gus Bilirakis
U.S. House of Representatives
2112 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bilirakis:

Thank you for your letter expressing concern about the Commission's work to adopt rules protecting the privacy of broadband customers' personal information.

I share your appreciation for the extraordinary economic and social benefits brought about by the availability of internet access and the proliferation of connected devices. In light of these developments, as you pointed out, consumers have certain internet-related privacy and security expectations. This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks).

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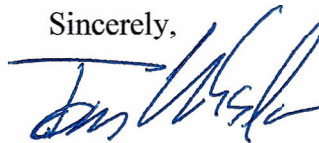
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June 30, 2016

The Honorable Leonard Lance
U.S. House of Representatives
2352 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Lance:

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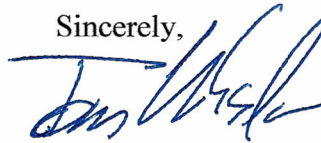
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